

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

DAVID C. ARNDT

Criminal No. 04-CR-10166-RGS

**ASSENTED TO MOTION OF THE DEFENDANT, DAVID C. ARNDT
FOR A CONTINUANCE
OF THE MARCH 23, 2006 SENTENCING DATE**

The Defendant, David C. Arndt ("Dr. Arndt") moves for a continuance of the current sentencing date of March 23, 2006 for the following reasons:

1. An important issue at the sentencing will be Dr. Arndt's Criminal History Score as it relates to his eligibility for the "safety valve" relief. Currently pending before the United States Court of Appeals for the First Circuit is U.S.A v. German Narvaez-Rosario, No. 05-1355, is a case directly relevant to these issues.

The direct issue under review by the First Circuit is:

"Under the advisory character of the Guidelines after
Booker, _U.S._, S.Ct. 738,

757 (2005), the District Court had authority to evaluate
the Appellant's prior conviction, and then determine that
he had only one criminal history point, and thus complied
with the requirements of 18 U.S.C. 3553(f), commonly known
as the safety valve." (Appellant Brief, p.2-3).

The case was argued on November 7, 2005 and should be decided soon. The Court of Appeals decision will be crucial to Dr. Arndt's legal arguments that he will present in his sentencing brief and this Court should have the benefit of the decision in order to guide it in determining the proper sentence.

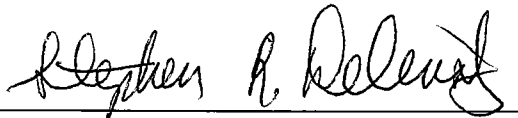
2. The government was provided with Dr. Arndt's experts reports on January 23, 2006 in accordance with the provisions of the plea agreement.

The government has assented to the motion and for the reasons set forth herein, the Defendant requests the Court to grant a continuance of the sentencing date from March 23, 2006 to at least one month after the First Circuit decision in the Narvaez-Rosario case. Counsel for Dr. Arndt will promptly notify the Court and the government when the case is decided.

Respectfully submitted,

DAVID C. ARNDT,

By his attorneys,



Stephen R. Delinsky (BBO# 119120)
ECKERT SEAMANS, CHERIN & MELLOTT, LLC
One International Place, 18th Floor
Boston, Massachusetts 02110
Telephone: 617.342.6800
Facsimile: 617.342.6899

DATED: March 3, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on 3-3-06

By: 